

Applicant: Weinger, E.
Serial No: 09/137,491
Page 2

REMARKS

The Examiner's rejection of claims 6 and 8 under 35 U.S.C. 102(e) as being anticipated by Wilk is respectfully traversed. Applicant has cancelled claims 6 through 9 without prejudice.

The Examiner's rejection of claims 1, 2, 3, 5, 7, and 9 through 17 under 35 U.S.C. 103(a) as being unpatentable over Wilk in view of Godlewski, et al. is respectfully traversed.

It is Applicant's position that there is no teaching or suggestion in either of the references to combine the references to arrive at Applicant's claimed invention. The system and method shown in Wilk is basically an ultrasonic imaging device to reduce the high cost of CAT scans and other costly medical diagnostic machinery, and to provide a portable diagnostic device. Applicant's claims 1 through 3, 5, 7, and 9 through 17 claim and specifically require the existence of an x-ray roentgenogram of a specific patient. Wilk shows the schematic of an x-ray machine in Figure 1 connected to something called an interface 44 (Fig. 1, Wilk), which is connected to a computer and to a printer. Applicant's specifically claimed invention in these claims requires the pre-existence of an actual x-ray roentgenogram. With Applicant's device, the actual patient x-ray film, once created, is the basis for processing an existing quality x-ray. The existence of an actual x-ray film or roentgenogram is not described or even suggested in Wilk. Wilk also does not suggest taking an actual x-ray film or roentgenogram of the patient and

Applicant: Weinger, E.
Serial No: 09/137,491
Page 3

physically putting that x-ray film in a specific high resolution digitizer. Also, Wilk does not suggest taking the actual x-ray film, digitizing the film and combining the film with specific patient information, which becomes part of the x-ray hard copy of a specific patient. The reference to Godlewski, et al. does not suggest taking an actual x-ray film and digitizing the film with the purpose being to convert the existing x-ray film to a high resolution printed hard copy of an actual patient's x-ray combined with the specific patient data information that can physically become part of the patient's file and can be utilized on site for evaluation of the patient. Applicant submits herewith an article (Exhibit A) entitled "Emerging Technology: Remote Analysis of Traumatic Musculoskeletal Radiographs Transmitted by Electronic Mail" published in the Journal of Orthopedic Trauma, Vol. 13, No. 7, 1999, pages 516 through 519, by Raikin, Bliey, and Leb. The crux of the article is shown in paragraph 1 on page 516 of the article. "The usual practice of orthopedic emergency care today involves the attending physician having the injury and the radiographs described to him from a remote site via telephone." (Emphasis added. Applicant's invention, which results in a hard paper copy of an actual patient film x-ray that can be readily observed by the physician who is the attending physician, is extremely important as pointed out by this article. If the radiologist has the actual x-ray films in his or her office, that patient's attending orthopedic surgeon can get high quality hard

Applicant: Weinger, E.
Serial No: 09/137,491
Page 4

copies wherever the patient is (hospital, for example) using Applicant's claimed invention, without discussing the x-ray film over the telephone with the radiologist. Neither of the references cited by the Examiner, Wilk or Godlewski, et al., has a device that produces an actual x-ray film of a specific patient and that has a device to specifically digitize that particular x-ray film or roentgenogram as required by Applicant's claims. The article in the Journal of Orthopedic Trauma, cited here in Vol. 13, No. 7, clearly shows that as of the date of the article, it was usual practice to have the actual radiograph described to the attending doctor by telephone. It is Applicant's position that this teaches away from the obviousness suggested by the Examiner.

It is also Applicant's position that the combination of Wilk and Godlewski, et al., would not result in Applicant's specifically claimed invention that includes a method of using an actual roentgenogram of a specific patient, as opposed to the types of machines described in Wilk and Godlewski, et al. The device described in Wilk in column 5, line 53, which is just an x-ray machine, does not describe anything but a box in Figure 1 that is allegedly image generating apparatus 42 connected to two other boxes called an interface in a computer. There is absolutely no information that would allow one to arrive at Applicant's specifically claimed invention when considered with Godlewski, et al. The fact that Wilk adds a printer to a schematic diagram and that Godlewski, et al. uses a printer does not provide Applicant's

Applicant: Weinger, E.
Serial No: 09/137,491
Page 5

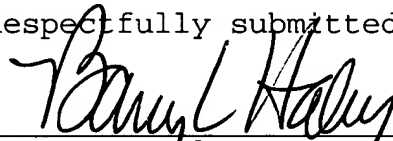
specific invention. Again, neither of these inventions starts with an actual radiographic roentgenogram x-ray image that itself is digitized and converted to various forms, including a printed hard copy that can be combined with patient information and placed at the patient site for direct review by the examining physician.

The Examiner's rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Wilk and Godlewski, et al. as applied to claim 1 and further in view of Wright, et al., is respectfully traversed. Applicant asserts the arguments above with respect to the complete absence in Wilk and in Godlewski, et al. of an actual x-ray radiograph or roentgenogram. Therefore, the combination and addition of Wright, et al. would not result in providing the claimed invention in claim 4 and specifically recited by Applicant.

It is Applicant's position that the claims as presented are allowable over the art of record.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



Barry L. Haley, Reg. No. 25,339
Malin, Haley & DiMaggio, P.A.
1936 South Andrews Avenue
Fort Lauderdale, Florida 33316
(954) 763-3303